

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

CELESTE LEATHERWOOD,)	
)	
Plaintiff,)	
vs.)	Case Number: 6:14-CV-00103-FHS
)	
UNITED STATES OF AMERICA, <i>ex rel.</i>)	
Department of Health and Human Services,)	
Indian Health Service d/b/a Cherokee)	
Nation W.W. Hastings Indian Hospital,)	
)	
Defendant.)	

COMPLAINT

Comes now plaintiff, Celeste Leatherwood, and submits her original complaint against defendant, United States of America, *ex rel.* Department of Health and Human Services, Indian Health Service d/b/a Cherokee Nation W.W. Hastings Indian Hospital (hereinafter “United States of America”), as follows:

PARTIES/JURISDICTION/VENUE

1. Plaintiff is a resident of Tahlequah, Oklahoma, Cherokee County.
2. This action has been brought pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) and 2671, *et seq.* United States of America is the named defendant on behalf of and/or in relation to federal agency, the Department of Health and Human Services, Indian Health Service doing business at the time of the events giving rise to this action as Cherokee Nation W.W. Hastings Indian Hospital and its employed health care providers. The acts and/or omissions giving rise to this personal injury/medical malpractice action occurred during plaintiff's hospital admission of October 25-28, 2010, at Cherokee Nation W.W. Hastings Indian Hospital in Tahlequah, Oklahoma; therefore,

jurisdiction and venue are appropriate.

3. Before filing the present action, plaintiff timely submitted an administrative claim and same was acknowledged as received by the Department of Health and Human Services on October 24, 2012. Plaintiff's administrative claim was subsequently denied. Plaintiff is filing the present action within six months of the date of mailing of the administrative denial, i.e., within six months of September 18, 2013.

BACKGROUND

4. On October 25, 2010, plaintiff was admitted to Cherokee Nation W.W. Hastings Indian Hospital in Tahlequah, Oklahoma for induction of labor. At that time, plaintiff's pregnancy was estimated to be more than 41 weeks. This was her first pregnancy and was to be her first delivery.

5. The first stage of labor began at approximately 12:01 a.m. on October 26. Epidural anesthesia was instituted between 1:40 a.m. and 2:02 a.m. The second stage of labor began at approximately 4:05 a.m. At that time, plaintiff was instructed to actively push with her contractions. By 6:25 a.m., plaintiff stated that she, "can't feel if I'm doing it right." Her epidural pump was turned off so that "patient can get feeling back to push effectively."

6. Following what was charted to be a "prolonged second stage" (a recorded total of five hours and two minutes), plaintiff gave birth to a viable male infant (weighing eight pounds, three ounces) at 9:07 a.m. on October 26, 2010. Unfortunately, plaintiff needlessly suffered a severe fourth degree perineal laceration that extended into her rectum. Events leading to plaintiff's severe perineal injuries were briefly recorded in the medical record as follows:

Called to room for vaginal delivery with head protruding & patient pushing – uncontrolled expulsion & head & body while I was getting gloves on.

7. Following discharge from the hospital, plaintiff developed a significant labial abscess and, ultimately, transsphincteric rectal fistula and infection. Feces were emptying into plaintiff's vagina. Plaintiff was readmitted to the hospital and these problems had to be addressed both surgically and medically on multiple occasions. For several months thereafter, she continued to have persistent problems related to her recto-vaginal fistula, including the inability to have normal bowel movements and uncontrollable loss of flatus. Plaintiff was eventually referred to a colorectal surgeon for further management.

COUNT I – NEGLIGENCE

8. Defendant, United States of America, through Cherokee Nation W.W. Hastings Indian Hospital and its employee and/or agent health care providers, owed plaintiff a duty to provide reasonable care. The care and treatment by the employee and/or agent health care providers at Cherokee Nation W.W. Hastings Indian Hospital fell below the applicable standard of care; therefore, the duty owed to plaintiff was breached. Specifically, defendant inappropriately failed to prevent and/or reduce perineal trauma.

9. The substandard care and treatment of defendant, through Cherokee Nation W.W. Hastings Indian Hospital and its employee and/or agent health care providers, was the proximate cause of the injuries to plaintiff.

10. As the direct result of defendant's negligence, through Cherokee Nation W.W. Hastings Indian Hospital and its employee and/or agent health care providers, plaintiff has incurred and will

incur: physical pain and suffering; mental pain and suffering; physical impairment; medical expenses; the probability of future sequelae and/or complications due to her injuries.

WHEREFORE, plaintiff prays for judgment against defendant for actual and compensatory money damages in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) but no more than the amount requested in plaintiff's administrative claim, together with costs and any additional relief that the court deems appropriate.

Respectfully submitted,

s/Geremy A. Rowland

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